

CHAPTER 6

Business Licenses and Regulations

ARTICLE I Alcoholic Beverages

<u>Section 6-1</u>	Definitions
<u>Section 6-2</u>	Applicability
<u>Section 6-3</u>	Application for liquor license: fee
<u>Section 6-4</u>	Classification
<u>Section 6-5</u>	Tax nondiscriminatory
<u>Section 6-6</u>	Assessment of tax: rate
<u>Section 6-7</u>	Payment of tax
<u>Section 6-8</u>	Delinquency
<u>Section 6-9</u>	Civil action for collection
<u>Section 6-10</u>	Optional premises licenses
<u>Section 6-11</u>	Growing and Selling Marijuana for Recreational use.
<u>Section 6-12-20</u>	Reserved

ARTICLE II Medical Marijuana

<u>Section 6-21</u>	Unlawful act
<u>Section 6-22</u>	Definitions
<u>Section 6-23</u>	Applicability and effective date
<u>Section 6-24</u>	Personal use

ARTICLE I

Alcoholic Beverages

Sec. 6-1. Definitions.

As used in this Article, the following words or phrases shall have the following meanings, respectively:

(1) **Malt liquor** includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar products or any combination thereof in water, containing more than three point two percent (3.2%) alcohol by weight.

(2) **Medicinal liquor** means any liquor sold by a duly licensed pharmacist or drugstore solely on a bona fide doctor's prescription.

(3) **Operator** means a person licensed by law to sell three point two (3.2) beer and malt, vinous and spirituous liquors, other than medicinal liquors, for beverage purposes at retail and who is engaged at any time during the calendar year in such operation within the Town.

(4) **Person** includes persons, partnerships, associations, organizations or corporations.

(5) **Spirituous liquor** means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things: brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol and which are fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except as above provided shall not be construed to be malt or vinous liquors but shall be construed to be spirituous liquor.

(6) **Three point two (3.2) beer** means malt liquor as herein defined as containing not more than three point two percent (3.2%) alcohol by weight.

(7) **Vinous liquor** includes wine and fortified wines not exceeding twenty-one percent (21%) alcohol by volume and shall be construed to mean an alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural produce containing sugar.

Sec. 6-2. Applicability.

In addition to any of the rules or laws which may be applicable, these rules shall govern all proceedings before the Board of Trustees. If any of the rules contained herein shall conflict with any provisions of the laws of the State or the rules of the State Licensing Authority pertaining to the Colorado Liquor Code or to rules pertaining to the licensing or sale of fermented malt beverages, the provisions of state law or the rules of the State Licensing Authority shall govern.

Sec. 6-3. Application for liquor license; fee.

(a) All applications for liquor licenses and for fermented malt beverage licenses shall be filed with the Town Clerk. Any person applying for such license shall file the state license application form which shall be filled out and completed in all material details. Incomplete application forms shall be rejected. All license forms shall be filled out by typewriter or printed in ink, and all other information or exhibits submitted shall be typewritten or printed in ink, except plans and specifications which may be required.

(b) At the time of submitting the application, the applicant shall pay an application fee to the Town. Such fee shall be used to defray the expense incurred by the Town for the review, investigation, supplies, posting and publication of premises and all other services of personnel of the Town which pertain to the application. Such application fee shall apply only to applications for new licenses and to applications for the transfer of ownership of an existing license or for transfer of the location of an existing license. Such application fee shall be set by resolution of the Board of Trustees.

Sec. 6-4.Classification.

The business of selling at retail any three point two (3.2) beer or malt, vinous or spirituous liquor, other than medicinal liquors, for beverage purposes within the Town is hereby defined and separately classified as such occupation for the purposes of this Article, as follows:

(1) Class "A" Operators. All operators who are licensed to sell beer, wine and spirituous liquors for consumption on the premises, either at hotels or restaurants, shall be Class "A" Operators.

(2) Class "B" Operators. All operators licensed as retail liquor stores to sell, in original containers, malt, vinous or spirituous liquors for consumption off the premises shall be Class "B" Operators.

(3) Class "C" Operators. All operators licensed to sell only three point two (3.2) beer and who sell the same for consumption on the premises are Class "C" Operators.

(4) Class "D" Operators. All operators licensed to sell only three point two (3.2) beer and who sell the same solely in the original package or container for consumption off the premises shall be Class "D" Operators.

(5) Class "E" Operators. All operators licensed to sell malt, vinous or spirituous liquors by the drink only to members of clubs and their guests within the premises of said club shall be Class "E" Operators.

(6) Class "F" Operators. All hotel and restaurant licensees, beer and wine licensees, tavern licensees, club licensees, and arts licensees obtaining a special license to sell, serve or distribute malt, vinous and spirituous liquors by the drink after the hour of 8:00 p.m. and until midnight.

(7) Class "G" Operators for breweries, distilleries, and wineries.

Sec. 6-5.Tax nondiscriminatory.

The Town hereby finds, determines and declares that, considering the nature of the business of selling at retail three point two (3.2) beer and malt, vinous and spirituous liquors for beverage purposes and relation of such business to the municipal welfare, as well as the relation thereof to the expenditures required by the Town and a proper, just and equitable distribution of tax burdens within the Town, and all other matters proper to be considered in relation thereto, the classification of said business as a separate occupation is reasonable, proper, uniform and nondiscriminatory and that the amount of tax hereby imposed by this Article is reasonable, proper, uniform and nondiscriminatory and necessary for a just and proper distribution of tax burdens within the Town.

Sec. 6-6.Assessment of tax; rate.

There is hereby levied and assessed an annual occupation tax on the business of selling three point two (3.2) beer or malt, vinous and spirituous liquors, except medicinal liquors, in the Town, as said occupation has been herein classified, such occupation tax to be set by resolution of the Board of Trustees.

Sec. 6-7. Payment of tax.

- (a) Such tax shall be due and payable to the Town Clerk on January 1 of each year and shall be delinquent on February 1 of the same year. Prepayment of said tax may be made in the month of December preceding the due date.
- (b) Upon receipt of such tax, it shall be the duty of the Town Clerk to execute and deliver to the operator paying the tax a receipt showing the name of the operator paying the tax, the date of payment, the annual period for which said tax is paid and the place at which said operator conducts business.
- (c) The operator shall, at all times during said year, keep said receipt posted in a conspicuous place in his or her place of business.
- (d) Whenever any licensee begins business with a new license, subsequent to January 1 of any year, the occupational license tax required herein shall be prorated on a monthly basis for the remaining portion of the year; but no refund shall be made to any person who discontinues business under a license before the expiration of the period covered by the tax. In the event the ownership of an existing license is transferred to a new licensee during any year, the transferred license shall not be considered a new license and no additional occupational license tax shall be required in connection with such license. If this Article is adopted in the middle of a fiscal year, the operator shall pay only that share of taxes which apply to the balance of the fiscal year in which this Article is adopted. All taxes provided for in this Article shall be due as provided above, except that all taxes provided for in this Subsection shall be due and payable upon the beginning of business or upon adoption of this Article and shall be delinquent ten (10) days thereafter. Interest shall accrue on all delinquent taxes from the day of delinquency until paid and shall accrue at the rate of one percent (1%) per month.

Sec. 6-8. Delinquency.

No delinquency in payment of the tax herein provided for shall be grounds for suspension or revocation of any such operator by any licensing authority pursuant to the statutes enacted by the General Assembly of the State, and in performance of any duties imposed by said statutes upon the Board of Trustees, as a licensing authority, the Board of Trustees shall exclude from consideration any delinquency in payment of the tax herein provided for.

Sec. 6-9. Civil action for collection.

The Town shall have the right to recover all sum due by the terms of this Article by judgment and execution thereon in a civil action, in any court of competent jurisdiction. Such remedy shall be cumulative with all other remedies provided herein for the enforcement of this Article.

Sec. 6-10. Optional premises licenses.

- (a) Authority. The Board of Trustees shall have the power to issue optional premises licenses and optional premises for hotel and restaurant licenses in accordance with the provisions of the Colorado Liquor Code, Section 12-47-101 *et seq.*, C.R.S., and the provisions of this Section. The provisions of this Section shall be considered in addition to all other standards applicable to the issuance of licenses under this Article and under the Colorado Liquor Code.
- (b) Definitions. In addition to the definitions set forth in Section 6-1 of this Article, the following definitions shall apply for the purposes of this Section.

(1) *Optional premises* means:

(a) The premises specified in an application for a hotel and restaurant license under this Article with related outdoor sports and recreational facilities for the convenience of its guests or the general public located on or adjacent to the hotel or restaurant within which such operator is authorized to sell or serve three point two (3.2) beer or malt, vinous or spirituous liquors, other than medicinal liquors, in accordance with the provisions of this Article and at the discretion of the Board of Trustees and the State Licensing Authority; or

(b) The premises specified in an application for an optional premises license located on an applicant's outdoor sports and recreational facility.

(2) *Outdoor sports and recreational facility* means a facility that charges a fee for the use of such facility, as defined in Section 12-47-103(22), C.R.S.

(3) The optional premises license and the optional premises for hotel and restaurant licenses shall be collectively referred to as an *optional premises license* unless otherwise specified herein.

(a) Eligible facilities. An optional premises license may only be considered for premises which are located upon an outdoor sports and recreational facility as defined herein.

(b) Size of eligible facilities. There shall be no minimum size requirement for the outdoor sports and recreational facilities which may be eligible for the approval of an optional premises license. However, the Board of Trustees may consider the size of the particular outdoor sports and recreational facility in relation to the number of optional premises requested for the facility.

(c) Number of optional premises per facility. There shall be no restrictions on the number of optional premises which any one (1) licensee may have on an outdoor sports and recreational facility. However, any applicant requesting approval of more than one (1) optional premises on an outdoor sports and recreational facility shall demonstrate the need for each optional premises in relationship to the outdoor sports and recreational facility and its guests.

(d) Information required on application. When submitting a request for the approval of an optional premises license, an applicant shall comply with all application requirements set forth in Section 6-3 of this Article. In addition, the applicant for an optional premises license shall submit the following information:

(1) A map or other drawing illustrating the outdoor sports and recreational facility boundaries and the approximate location of each optional premise requested;

(2) A description of the method which shall be used to identify the boundaries of the optional premises when in use; and

(3) A description of the provisions which have been made for storing three point two (3.2) beer or malt, vinous or spirituous liquor, other than medicinal liquors, in a secured area on or off the optional premises for future use on the optional premises.

(e) Processing of applications. An application for a new optional premises license shall be processed in the same manner as any other new license application under this Article. An application for an optional premises filed in connection with an existing hotel and restaurant license shall be processed in the same manner as an application to modify or expand the licensed premises.

(f) Discretion of Town Board. Any decision by the Board of Trustees to grant, deny or renew an optional premises license under this Section 6-10 shall be discretionary.

(g) Notice of operation. Pursuant to Section 12-47-310, C.R.S., no alcoholic beverages may be served on the optional premises unless the operator has provided written notice to the Board of Trustees and the State Licensing Authority forty-eight (48) hours prior to serving alcoholic beverages on the optional premises. Such notice shall contain the specific days and hours during which the optional premises are to be used. There shall be no limitation on the number of days which an operator may specify in each notice; however, no notice may specify any date of use which is beyond the current license period.

(h) Compliance with Article required. Nothing in this Section 6-10 shall be construed to permit the violation of any other provision of this Article under circumstances not specified in this Section 6-10.

Sec. 6-11 Growing and Selling Marijuana for Recreational use.

Uses prohibited:

1. It is unlawful for any person to operate a marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility, or retail marijuana store within the Town.
2. It is unlawful to grow marijuana for personal use anywhere in the Town other than an enclosed, locked space which is not open or public. "Enclosed" means all sides closed with/by walls or doors.
3. It is unlawful to make marijuana grown for recreational use available for sale in any manner.

Secs. 6-12--6-20. Reserved.

ARTICLE II Medical Marijuana

Sec 6-21 Unlawful Act

it is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center, an optional premises cultivation operation or a medical marijuana infused products manufacturing or sale facility, business or operation related thereto in the town and no town licenses shall issue for the same.

Sec 6-22 definitions: all definitions provided in 12-43.3-101 et. seq. C.R.S. are adopted herein unless specifically amended hereby.

- (1) "marijuana" shall have the same meaning as the term "usable form of marijuana" as set forth in article xviii, sec. 14(1)(i) of the Colorado constitution or as may be more fully defined in any applicable state law or regulation. "marijuana" may alternatively be spelled "marihuana."
- (2) "medical marijuana" means marijuana that is grown and sold pursuant to the provisions of 12-43.3-101 et. seq. C.R.S. and for a purpose authorized by article xviii, sec. 14 of the Colorado constitution.
- (3) "medical marijuana center" means any person licensed pursuant to 12-43.3-101 et. seq. C.R.S. who sells marijuana in any form to registered patients or to a primary caregiver(s) as defined in article xviii, sec. 14 of the Colorado constitution, except, however, a primary caregiver as defined herein shall not be considered a medical marijuana center.

- (4) “medical marijuana infused product” means any product infused with or containing marijuana that is intended for use or consumption other than by smoking, including edible products, ointments and tinctures.
- (5) “medical marijuana infused product manufacturer” means a person licensed pursuant to 12-43.3-101 et. seq. C.R.S. to operate a business as described in 12-43.3-404 C.R.S.
- (6) “medical use” shall have the same meaning as is set forth in article xviii, sec. 14(1)(b) of the Colorado constitution, or as may be more fully defined in any applicable state law or regulation.
- (7) “optional premises cultivation operation” means a person licensed pursuant to 12-43.3-101 et. seq. C.R.S. to grow and cultivate marijuana for a purpose authorized by article xviii, sec. 14 of the Colorado constitution.
- (8) “patient” has the same meaning as set forth in article xviii, sec. 14(1)(c) of the Colorado constitution.
- (9) “person” shall mean a natural person, partnership, association, company, corporation, limited liability company or other organization or entity or a manager, agent, owner, officer or employee thereof.
- (10) “possess or possession” means having physical control of an object, or control of the premises in which an object is located, or having the power and intent to control an object, without regard to whether the one in possession has ownership of the object. possession may be held by more than one person at a time. use of the object is not required for possession.
- (11) “primary caregiver” has the meaning set forth in article xviii, sec. 14(1)(f) of the Colorado constitution and as the same may be clarified or construed by 12-43.3-101 et. seq. C.R.S.
- (12) “produce or production” means (i) all phases of growth of marijuana from seed to harvest, (ii) combining marijuana with any other substance for distribution, including storage and packaging for resale, or (iii) preparing, compounding, processing, encapsulating, packing or repackaging, labeling or re-labeling of marijuana or its derivatives whether alone or mixed with any amount of any other substance.

Sec. 6-23 applicability and effective date

- (1) this article shall apply to all property and persons within the town of Williamsburg.
- (2) it shall be unlawful and a violation under this chapter for a person to establish, operate, cause or permit to be operated, or continue to operate within the city and within any area annexed to the city after the effective date of this ordinance, a medical marijuana center, a medical marijuana infused product manufacturing facility, an optional premises cultivation operation, or any business, facility or any other operation requiring a license under 12-43.3-101 et. seq. C.R.S.

Sec 6-24. Personal Use:

- 1. It is unlawful to grow, process, transport, or possess more than 6 marijuana plants, with no more than three being mature, for personal use. This number will change whenever state law related to the number of plants allowed is changed. The number of plants over 6, or over three being mature, is defined as “excess plants.”
- 2. Fine. For each excess plant, a fine of \$300.00 per day per plant will be imposed. The fine will begin on the day the excess number of plants is identified until the day it is proven that the excess plants have been removed. Notice of fine, its start date, and copy of this ordinance will be sent to the violator by registered mail

Sec 6-25.

The Town of Williamsburg has no liability to return or pay for an individual's marijuana plant(s) that are confiscated by law enforcement.